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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,641	12/30/2003	Lyle Berman		6896

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EXAMINER

LAYNO, BENJAMIN

ART UNIT PAPER NUMBER

3711

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/748,641	Applicant(s) BERMAN, LYLE	
	Examiner Benjamin H. Layno	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-13 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Chilton et al..

The patent application publication to Chilton et al. discloses a method of wagering on a casino slot machine card game 10a. To play Chilton's game the slot machine accepts a wager from a player, see paragraph [0037]. Chilton recites "that the qualifying outcome or condition could be associated for example with one or more of a plurality of selectable selections in a player selection type game or one or more offers in a player offer acceptance type game" paragraph [0056]. Thus, the player selects a quantity of play based on criteria of a number of hands (poker hands). A payout is determined based on the statistical probability of winning a total amount of credits in a predetermined amount of time, see paragraph [0064]. The player accumulating the

most credits in the predetermined amount of time wins a payout (grand prize), see paragraph [0064]. **The Examiner takes the position that it is inherent in Chilton's game to permit play to continue even if a hand is lost because the object of Chilton's game is not to receive consecutive winning hands, but to accumulate the most credits over a predetermined amount of time. Thus, receiving losing hands during the predetermined amount of time is inevitable.**

In regard to claims 3, 5, 7, Chilton's slot machine card game is played on a network, paragraph [0044].

Smart cards may be used on Chilton's slot machine card game in order to track a player's accumulated total credits, paragraphs [0037], [0038].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton et al. as applied to claim 1 above, and further in view of Moore 463'.

The patent to Moore 463' teaches that it is known in the slot machine art to play a dice game on a slot machine, Fig. 3. In view of such teaching, it would have been obvious to use dice symbols on Chilton's slot machine reels. This modification would have attracted dice game players to Chilton's slot machine.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton et al. as applied to claim 1 above, and further in view of Celona.

The patent to Celona teaches that in the slot machine art that if one player win a bonus or jackpot payout, that bonus or jackpot payout may be divided among other player. In view of such teaching, it would have been obvious to modify Chilton's slot machine such that if one player wins a bonus payout, that payout would have been divided among the other players. This modification would have made Chilton's game more exciting to play.

7. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton et al. as applied to claim 1 above, and further in view of Ornstein 885'.

The patent to Ornstein 885' teaches that it is known to play a card game on a slot machine, Fig. 2 and place a wager on the number of consecutive wins a player receives while playing the slot machine, col. 4, line 33 to col. 21. In view of such teaching, it would have been obvious provide Chilton's slot machine a payout for consecutive wins. During game play on Chilton's slot machine, if a player placed a wager for four consecutive winning hands, and if a player received less than four consecutive winning hands (e.g. one win, two consecutive wins, or three consecutive wins), the player would have received a payout based on the statistical probability of winning less than the total number (four) of consecutive winning hands.

8. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton et al. as applied to claim 1 above, and further in view of Acres et al.

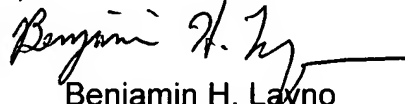
The patent to Acres teaches that it is known in the networked slot machine art to provide a player tracking card 120 having a code for tracking a player's frequency of playing slot machines. In view of such teaching, it would have been obvious to provide a player tracking cards having codes to Chilton's slot machine. This modification would have information to casino on how often a player is playing the slot machines for business purposes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3711

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl